

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

Fraleg Group, Inc.,

Case No. 22-41410-jmm

Debtor.

Chapter 11

DECLARATION OF DAVID FERGUSON

I, David Ferguson, Esq., hereby declare as follows:

1. My name is David Ferguson. I am over twenty-one (21) years of age, am admitted to practice in this Court, and in all respects qualified to make this Declaration. I am a shareholder with the law firm of Polsinelli PC, counsel for secured creditor CAF Borrower GS LLC (“**Lender**”). In that capacity, I am familiar with the facts and events described herein. I make this Declaration based on my personal knowledge and my review of the file kept by Polsinelli PC.

2. On June 7, 2022, Fraleg’s prior counsel, Francis Hemmings, contacted me and represented that Fraleg was looking to close a refinance on the Loan by June 15, 2022. Mr. Hemmings requested a “final payoff” for the Loan. Lender provided an updated payoff that same day, good through June 15, 2022 (the “**June 7 Payoff**”). A true and correct copy of the June 7 Payoff is attached hereto as **Exhibit 1**.

3. The June 7 Payoff includes interest on the Note at the contract rate through June 15, 2022.

4. The June 7 Payoff also includes attorneys’ fees and other costs and charges.

5. After filing its second bankruptcy case, the instant matter, Fraleg claimed for the first time that Lender’s Proof of Claim in Fraleg I and the June 7 Payoff were both overstated.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 6th day of October, 2022

/s/ David D. Ferguson

David Ferguson